

Message Text

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ORIGIN OPIC-12

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APPROVED BY: EB/IFD/OIA:R.SMITH

AF/E: B C ROGERS INFO

EB/IFD/OIA:T BRODERICK

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FM SECSTATE WASHDC

TO AMEMBASSY MOGADISCIO

C O N F I D E N T I A L STATE 149039

E.O. 11652: GDS

TAGS: EFIN, M

SUBJECT: OPIC/PRODMA

REF: MOGAD 1065

(1) HERE IS PROPOSED DRAFT OF LETTER TO APPROPRIATE GSDR
OFFICIAL. OPIC WOULD APPRECIATE ANY SUGGESTIONS EMBASSY MAY
HAVE IN THIS REGARD.

QUOTE: "PURSUANT TO THE AGREEMENT REACHED BETWEEN BASHIR
AHMED GARDAD, DIRECTOR GENERAL OF THE MINISTRY OF FISHERIES
AND MARINE TRANSPORT OF THE SOMALI DEMOCRATIC REPUBLIC ("SDR")
AND MR. JOHN HOVELER, REPRESENTATIVE OF THE OVERSEAS PRIVATE
INVESTMENT CORPORATION ("OPIC"), AS CONFIRMED BY THE OCTOBER 10,
1973 LETTER OF ADVOCATE ABDULLAHI SAID OSMAN, THE CHIEF STATE
COUNSEL, THE GOVERNMENT OF THE SDR ("GSDR") HAS AGREED TO
PURCHASE FROM OPIC THE ASSETS OF PRODMA, WHICH OPIC HOLDS,
AS THE DULY AUTHORIZED SUCCESSOR-IN-INTEREST TO FEARN FOODS, INC.,
BY REASON OF THE LIQUIDATION OF PRODMA. THE AGREED PURCHASE PRICE
IS THE UNITED STATES DOLLAR EQUIVALENT OF TWO MILLION SOMALI SHILLINGS,

TO BE PAID IN FULL WITHIN THIRTY DAYS OF THE PHYSICAL POSSESSION
OF THE FORMER PRODMAN ASSETS BY THE GSDR.

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OPIC UNDERSTANDS THAT THE GSDR WISHES TO RESUME OPERATION OF THE ASSETS OF PRODMA NOW HELD BY OPIC (THE "PRODMA ASSETS") AS SOON AS POSSIBLE AND THAT THE GSDR WISHES TO ENTER AND USE THE PRODMA ASSETS PRIOR TO PAYMENT OF THE PURCHASE PRICE AND PASSAGE OF LEGAL TITLE TO THE GSDR. OPIC IS PREPARED TO ASSIST THE GSDR IN THIS MATTER AND UNDERSTANDS THAT THE GSDR IS IN AGREEMENT THAT THE TRANSACTION SHALL OCCUR IN THE FOLLOWING MANNER:

(A) NOT LATER THAN THIRTY DAYS FROM THE DATE OF THIS LETTER THE GSDR WILL DELIVER TO OPIC OR OPIC'S REPRESENTATIVE AS PAYMENT IN FULL FOR THE PRODMA ASSETS A CHECK OR DRAFT TO THE ORDER OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION IN AN AMOUNT EQUAL TO THE UNITED STATES DOLLAR EQUIVALENT OF TWO MILLION SOMALI SHILLINGS AND PAYABLE IN THE UNITED STATES.

(B) UPON RECEIPT OF THE UNITED STATES DOLLARS EVIDENCED BY SUCH CHECK OR DRAFT, OPIC WILL PROMPTLY TAKE ALL NECESSARY ACTION TO CAUSE LEGAL TITLE TO THE PRODMA ASSETS TO BE TRANSFERRED TO THE GSDR OR ITS DESIGNEE.

(C) BASED UPON THE FOREGOING UNDERSTANDING OPIC HEREBY PERMITS THE GSDR TO ENTER AND USE THE PRODMA ASSETS FROM AND AFTER THE DATE OF THIS LETTER.

WE ALSO REFER YOU TO NUMBERED PARAGRAPH 3 OF THE CHIEF STATE COUNSEL'S LETTER WHICH STATES THAT THE GSDR WILL COMPENSATE PRODMA FOR ITS NATIONALIZED OIL STORAGE FACILITY AND EQUIPMENT BY PAYING THE UNITED STATES DOLLAR EQUIVALENT OF 300,00 SOMALI SHILLINGS. THE SHAREHOLDERS OF PRODMA AND ITS LIQUIDATOR HAVE ASSIGNED THIS COMPENSATION CLAIM TO OPIC. OPIC WOULD APPRECIATE ITS PROMPT PAYMENT." UNQUOTE.

(2) EMBOFF AND/OR SHIEKH AHMED ARE AUTHORIZED TO OMIT FINAL PARAGRAPH OR PRESENT IT SEPARATELY TO APPROPRIATE GSDR OFFICIAL.

(3) OPIC ASSUMES THAT UNDER SOMALI LAW, GSDR WILL BE RESPONSIBLE FOR ANY DAMAGE TO PRODMA ASSETS DURING PERIOD OF USAGE AND PRIOR TO PASSAGE OF LEGAL TITLE. OPIC WOULD APPRECIATE SHIEKH AHMED'S AFFIRMATION OF THIS VIEW AS WELL AS ANY SUGGESTIONS HE MIGHT HAVE TO PROTECT OPIC IN THIS TRANSACTION.
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(4) REF PARA 4: OPIC WILL ULTIMATELY REQUEST THAT EMB PAY LIQUIDATION FEE FROM ACCOUNT 71X4030 BUT MUST AWAIT RECEIPT OF INVOICE TO AUTHORIZE PAYMENT OF THE PROPER AMOUNT.

(5) PLEASE ADVISE SHIEKH AHMED THAT AFTER RECEIPT OF PAYMENT AND ADVICE FROM HIM AS TO AMOUNT OF HIS FEES AND EXPENSES TO DATE TOGETHER WITH OTHER CLOSING EXPENSES, OPIC WILL AUTHORIZE THEIR

PAYMENT PROMPTLY FROM ACCOUNT 71X4030. KISSINGER

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